

JEFFREY K. STARNES
Assistant U.S. Attorney
U.S. Attorney's Office
P.O. Box 3447
Great Falls, MT 59403
119 First Ave. N., Suite 300
Great Falls, MT 59401
Phone: (406) 761-7715
Fax: (406) 453-9973
E-mail: jeff.starnes@usdoj.gov

ATTORNEY FOR PLAINTIFF
UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

FILED

JUN 17 2025
Clerk, U.S. Courts
District of Montana
Missoula Division

UNITED STATES OF AMERICA, Plaintiff, vs. REX WU, JR., Defendant.	CR 25-19-BU-DLC PLEA AGREEMENT
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Pursuant to Rule 11 of the Federal Rules of Criminal Procedure, the United States of America, represented by Jeffrey K. Starnes, Assistant United States Attorney for the District of Montana, and the defendant, Rex Wu, Jr., and the defendant's attorney, David Maldonado, have agreed upon the following:

<u>AS</u>	<u>RW</u>	<u>DM</u>
AUSA	DEF	ATTY

1. **Scope:** This plea agreement is between the United States Attorney's Office for the District of Montana and the defendant. It does not bind any other federal, state, or local prosecuting, administrative, or regulatory authority, or the United States Probation Office.

2. **Charges:** The defendant agrees to waive indictment and plead guilty to a felony information that charges one count of cyberstalking, in violation of 18 U.S.C. §§ 2261A(2)(B) and 2261(b). This offense carries a maximum punishment of five years of imprisonment, a \$250,000 fine, three years of supervised release, and a \$100 special assessment.

In exchange for the defendant's guilty plea, the United States agrees that it will not seek to charge the defendant with any other offense known to the prosecution at the time this agreement is signed by the parties.

3. **Nature of the Agreement:** The parties agree that this plea agreement will be governed by: Rules 11(c)(1)(A) and (B) of the *Federal Rules of Criminal Procedure*. The defendant acknowledges that the agreement will be fulfilled provided the United States: a) does not seek to charge the defendant with any other offense known to the prosecution at the time this agreement is signed; and b) makes the recommendations provided below. The defendant understands that if the agreement is accepted by the Court, there will not be an automatic right to

		
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withdraw the plea even if the Court does not accept or follow the recommendations made by the United States.

4. Admission of Guilt: The defendant will plead guilty because the defendant is guilty of Cyberstalking as charged in the information. In pleading guilty, the defendant acknowledges that:

- First, the defendant used an interactive computer service, electronic communication service, electronic communication system of interstate commerce, or other facility of interstate and foreign commerce to engage in a course of conduct;
- Second, the defendant did so with the intent to harass, intimidate, or place under surveillance with the intent to harass or intimidate another person; and
- Third, the course of conduct caused, attempted to cause, or would be reasonably expected to cause "substantial emotional distress" to the other person.

5. Waiver of Rights by Plea:

(a) The defendant is entitled to have the charge outlined in paragraph 2, above, prosecuted by an indictment returned by a concurrence of 12 or more members of a legally constituted grand jury, consisting of not less than 16 and not more than 23 members.

(b) The government has a right to use against the defendant, in a prosecution for perjury or false statement, any statement given under oath during the plea colloquy.

<u>XC</u>	<u>RW</u>	<u>DM</u>
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(c) The defendant has the right to plead not guilty or to persist in a plea of not guilty.

(d) The defendant has the right to a jury trial unless, by written waiver, the defendant consents to a non-jury trial. The United States must also consent and the Court must approve a non-jury trial.

(e) The defendant has the right to be represented by counsel and, if necessary, have the Court appoint counsel at trial and at every other stage of these proceedings.

(f) If the trial is a jury trial, the jury would be composed of 12 laypersons selected at random. The defendant and the defendant's attorney would have a say in who the jurors would be by removing prospective jurors for cause where actual bias or other disqualification is shown, or without cause by exercising peremptory challenges. The jury would have to agree unanimously before it could return a verdict of either guilty or not guilty. The jury would be instructed that the defendant is presumed innocent, and that it could not convict unless, after hearing all the evidence, it was persuaded of the defendant's guilt beyond a reasonable doubt.

(g) If the trial is held by the judge without a jury, the judge would find the facts and determine, after hearing all of the evidence, whether or not the judge was persuaded of the defendant's guilt beyond a reasonable doubt.

(h) At a trial, whether by a jury or a judge, the United States would be required to present its witnesses and other evidence against the defendant. The defendant would be able to confront those government witnesses and the defendant's attorney would be able to cross-examine them. In turn, the defendant could present witnesses and other evidence. If the witnesses for the defendant would not appear voluntarily, their appearance could be mandated through the subpoena power of the Court.

(i) At a trial, there is a privilege against self-incrimination so that the defendant could decline to testify, and no inference of guilt could be drawn from the refusal to testify. Or the defendant could exercise the choice to testify.

(j) If convicted, and within 14 days of the entry of the Judgment and Commitment, the defendant would have the right to appeal the conviction to the Ninth Circuit Court of Appeals for review to determine if any errors were made that would entitle the defendant to reversal of the conviction.

(k) The defendant has a right to have the district court conduct the change of plea hearing required by Rule 11, Federal Rules of Criminal Procedure. By execution of this agreement, the defendant waives that right and agrees to hold that hearing before, and allow the Rule 11 colloquy to be conducted by, the U.S. Magistrate Judge, if necessary.

		
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(l) If convicted in this matter, a defendant who is not a citizen of the United States may be removed from the United States, denied citizenship, and denied admission to the United States in the future.

The defendant understands that by pleading guilty pursuant to this agreement, the defendant is waiving all of the rights set forth in this paragraph. The defendant's attorney has explained those rights and the consequences of waiving those rights.

6. Recommendations: The United States will recommend the defendant's offense level be decreased by two levels for acceptance of responsibility, pursuant to USSG §3E1.1(a), unless the defendant is found to have obstructed justice prior to sentencing, pursuant to USSG §3C1.1, or acted in any way inconsistent with acceptance of responsibility. The United States will move for an additional one-level reduction, pursuant to USSG §3E1.1(b), if appropriate under the Guidelines. The parties reserve the right to make any other arguments at the time of sentencing. The defendant understands that the Court is not bound by these recommendations.

7. Abandonment of Property: The defendant agrees to abandon all right, title, and interest in the electronic devices seized by law enforcement in this case, which include the following:

- Black Samsung Galaxy S24 Ultra cellular phone, IMEI 350496872672882;

		
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- Samsung Tablet, S/N R52X300J2ZK
- Samsung Laptop with "I voted" sticker, S/N KVL799YWB000TNP
- Samsung Laptop with "Bozeman sports card" sticker, S/N 668N9FDWA00107W
- Samsung Tablet with keyboard case, S/N R52X2035ZNN
- HP Elite Mini 800 G9 desktop Personal Computer, S/N 8CC4022C9W

8. **Sentencing Guidelines:** Although advisory, the parties agree that the U.S. Sentencing Guidelines must be applied, and a calculation determined, as part of the protocol of sentencing to determine what sentence will be reasonable.

9. **Waiver of Appeal of the Sentence – Unconditional:** The defendant understands the law provides a right to appeal and collaterally attack the sentence imposed in this case. 18 U.S.C. § 3742(a); 28 U.S.C. §§ 2241, 2255. Based on the concessions made by the United States, the defendant knowingly waives any right to appeal or collaterally attack any aspect of the sentence, including conditions of probation or supervised release. This waiver includes challenges to the constitutionality of any statute of conviction and arguments the admitted conduct does not fall within any statute of conviction. This waiver does not prohibit the right to pursue a collateral challenge alleging ineffective assistance of counsel.

The defendant also waives the right to appeal any aspect of a sentence imposed below or within the Guideline range upon a revocation of supervised release in this case number, except where the defendant unsuccessfully objects to

the grade of violation applied by the court during the district court revocation proceedings. In that event, this waiver does not apply and the defendant may appeal the sentence imposed upon a revocation of supervised release, even if that sentence falls below or within the guideline range calculated by the court.

10. Voluntary Plea: The defendant and the defendant's attorney acknowledge that no threats, promises, or representations have been made to induce the defendant to plead guilty, and that this agreement is freely and voluntarily endorsed by the parties.

11. Detention/Release After Plea: The United States agrees that it will not move for detention but will defer to the discretion of the Court the decision as to whether the defendant meets the conditions of 18 U.S.C. § 3143(a)(1) or (2), and whether the defendant has clearly shown exceptional reasons why detention is not appropriate. 18 U.S.C. § 3145(c). The United States is obligated to advise the Court of the appropriate legal standards that relate to the defendant's eligibility for post-conviction release. The defendant acknowledges that obligation and understands that advising the Court as to the law and facts is not an abrogation of its agreement not to request remand.

12. Breach: If the defendant breaches the terms of this agreement, or commits any new criminal offenses between signing this agreement and

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sentencing, the U.S. Attorney's Office is relieved of its obligations under this agreement, but the defendant may not withdraw the guilty plea.

13. Agreement as to Restitution: The defendant agrees to pay restitution to the victim of the offense identified in the charging document. The amount of losses caused by the defendant's criminal conduct will be determined prior to sentencing hearing. The defendant agrees that the amount of restitution may be imposed in the judgment. The defendant agrees that any order of restitution includes all losses caused by the defendant's criminal conduct and relevant conduct, even if such losses resulted from counts dismissed, crimes not charged, or crimes not admitted by the defendant in the factual basis supporting his plea. 18 U.S.C. § 3663A(a)(3); 18 U.S.C. § 3663(a).

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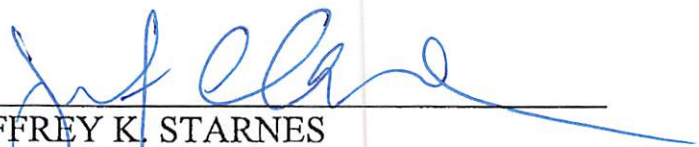
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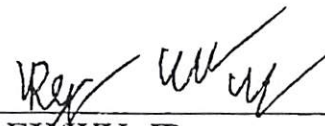
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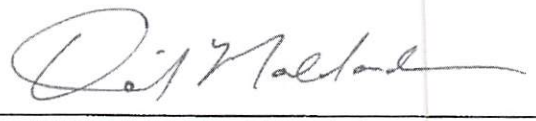
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14. **Entire Agreement:** Any statements or representations made by the United States, the defendant, or defense counsel prior to the full execution of this plea agreement are superseded by this plea agreement. No promises or representations have been made by the United States except as set forth in writing in this plea agreement. This plea agreement constitutes the entire agreement between the parties. Any term or condition which is not expressly stated as part of this plea agreement is not to be considered part of the agreement.

KURT G. ALME
United States Attorney


JEFFREY K. STARNES
Assistant U. S. Attorney
Date: 6/17/2025


REX WU, JR.
Defendant
Date: 6/17/25


DAVID MALDONADO
Defense Counsel
Date: 6/17/2025

  
AUSA DEF ATTY